

Message Text

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SUBJECT: COSTA RICAN JUDGE RULES THAT NO EXTRADITION LAW EXISTS

1. SUMMARY. A SURPRISE RULING BY A COSTA RICAN JUDGE STATES THAT NO EXTRADITION LAW EXISTS. JUDGE ALSO SAYS THAT IF AN EXTRADITION TREATY DOES NOT SPECIFICALLY ADDRESS EXTRADITION PROCEDURE, IT CANNOT BE CONSIDERED. EMBASSY IS CONSULTING LAWYERS TO SEE HOW THIS AFFECTS U.S. EXTRADITION ATTEMPTS, IF AT ALL. END SUMMARY.

2. ACCORDING TO A COSTA RICAN PENAL JUDGE RULING ON A SPANISH EXTRADITION REQUEST, COSTA RICA DOES NOT HAVE AN EXISTING EXTRADITION LAW. JUDGE'S REASONING HINGES ON THE DATES OF PROMULGATION OF COSTA RICA'S MOST RECENT PENAL CODE AS COMPARED TO DATE OF 1971 EXTRADITION LAW. IN THIS OPINION, HANDED DOWN ON JANUARY 25, JUDGE HELD THAT:

-- JULY 1971 LAW WAS EXPLICITLY LINKED TO 1941 PENAL CODE.

11 1941 PENAL CODE WAS REPLACED BY A NEW PENAL CODE, DATED NOVEMBER 1971, IN WHICH PREVIOUS CODE AND "ALL LEGAL DISPOSITIONS WHICH WERE ADDED TO IT OR WHICH REFORMED IT" WERE ALSO ABROGATED. RESULT: THE 1971 LAW WAS NULL AND VOID.

-- THEREFORE, 1974 "VESCO" LAW AND NEW 1976 EXTRADITION LAW,
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WHICH ARE BOTH REPEALS OF THE 1971 LAW, WERE "STILLBORN" AND "NEVER EXISTED."

3. JUDGE ALSO NOTED THAT 1898 SPANISH-COSTA RICAN EXTRADITION TREATY STATED THAT "EXTRADITION OF CRIMINALS WOULD BE CARRIED OUT IN ACCORDANCE WITH THE EXISTING LEGISLATION IN EACH COUNTRY." SINCE NO SUCH LEGISLATION EXISTS IN COSTA RICA, JUDGE NOTES,

EXTRADITION IS DENIED IN THE CASE OF THE SPANISH CRIMINAL.

4. LA NACION FEBRUARY 13 SUMS UP KEY ELEMENT THIS DECISION AS FOLLOWS:

A) THERE IS NO LAW COVERING EXTRADITION.

B) ALTHOUGH A TREATY MAY EXIST, IF IT DOES NOT ADDRESS PROCEDURE, OR THE AUTHORITY FOR THE SAME, A JUDGE CANNOT CONSIDER THE CASE. ACCORDINGLY, JUDGE DECLARED HIMSELF INCOMPETENT TO TAKE ACTION ON THE SPANISH GOVERNMENT'S REQUEST.

5. COMMENT: EMBASSY IS IN PROCESS OF CONSULTING SOME OF COSTA RICA'S MOST LEARNED LEGAL EXPERTS TO DETERMINE WHAT THIS DECISION REALLY MEANS, AND MOST IMPORTANTLY, IF IT WOULD AFFECT FUTURE U.S. EXTRADITION ATTEMPTS ACROSS THE BOARD. KILDAY

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